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**ENGROSSED SUBSTITUTE SENATE BILL 6251**

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**State of Washington**

**62nd Legislature**

**2012 Regular Session**

**By** Senate Judiciary (originally sponsored by Senators Kohl-Welles, Delvin, Eide, Chase, Pflug, Conway, Kline, Ranker, Stevens, Fraser, Regala, Nelson, Roach, and Frockt)

READ FIRST TIME 02/02/12.

1           AN ACT Relating to advertising commercial sexual abuse of a minor;  
2 adding a new section to chapter 9.68A RCW; creating new sections; and  
3 prescribing penalties.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5           NEW SECTION. **Sec. 1.** The legislature finds it unacceptable that  
6 Washington's children are being sold for sex in advertisements. A 2008  
7 Seattle human services department report estimated that there are three  
8 hundred to five hundred children being exploited for sex in the Seattle  
9 area alone each year. The legislature finds that the practice of  
10 escort services advertising includes minors who are being sold for sex,  
11 a form of sex trafficking and commercial sexual abuse of minors.  
12 According to the Seattle police department, since the beginning of  
13 2010, at least twenty-two children have been advertised online in the  
14 Seattle area for commercial sex and were recovered by the police  
15 department. The legislature is committed to eliminating sex  
16 trafficking of minors in a manner consistent with federal laws  
17 prohibiting sexual exploitation of children.

1        NEW SECTION.    **Sec. 2.**    A new section is added to chapter 9.68A RCW  
2 to read as follows:

3        (1) A person commits the offense of advertising commercial sexual  
4 abuse of a minor if he or she knowingly publishes, disseminates, or  
5 displays, or causes directly or indirectly, to be published,  
6 disseminated, or displayed, any advertisement for a commercial sex act,  
7 which is to take place in the state of Washington and that includes the  
8 depiction of a minor.

9        (a) "Advertisement for a commercial sex act" means any  
10 advertisement or offer in electronic or print media, which includes  
11 either an explicit or implicit offer for a commercial sex act to occur  
12 in Washington.

13        (b) "Commercial sex act" means any act of sexual contact or sexual  
14 intercourse, both as defined in chapter 9A.44 RCW, for which something  
15 of value is given or received by any person.

16        (c) "Depiction" as used in this section means any photograph or  
17 visual or printed matter as defined in RCW 9.68A.011 (2) and (3).

18        (2) In a prosecution under this statute it is not a defense that  
19 the defendant did not know the age of the minor depicted in the  
20 advertisement. It is a defense, which the defendant must prove by a  
21 preponderance of the evidence, that the defendant made a reasonable  
22 bona fide attempt to ascertain the true age of the minor depicted in  
23 the advertisement by requiring, prior to publication, dissemination, or  
24 display of the advertisement, production of a driver's license,  
25 marriage license, birth certificate, or other governmental or  
26 educational identification card or paper of the minor depicted in the  
27 advertisement and did not rely solely on oral or written  
28 representations of the minor's age, or the apparent age of the minor as  
29 depicted. In order to invoke the defense, the defendant must produce  
30 for inspection by law enforcement a record of the identification used  
31 to verify the age of the person depicted in the advertisement.

32        (3) Advertising commercial sexual abuse of a minor is a class C  
33 felony.

34        NEW SECTION.    **Sec. 3.**    If any part of this act is found to be in  
35 conflict with federal requirements that are a prescribed condition to  
36 the allocation of federal funds to the state, the conflicting part of  
37 this act is inoperative solely to the extent of the conflict and with

1 respect to the agencies directly affected, and this finding does not  
2 affect the operation of the remainder of this act in its application to  
3 the agencies concerned. Rules adopted under this act must meet federal  
4 requirements that are a necessary condition to the receipt of federal  
5 funds by the state.

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